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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,460	05/29/2001	Howard Ray Feldman	02918.00008	4647

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EXAMINER

NGUYEN, VAN KIM T

ART UNIT	PAPER NUMBER
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2151

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/865,460

Applicant(s)

FELDMAN ET AL.

Examiner

Van Kim T. Nguyen

Art Unit

2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-12 and 18-25 is/are pending in the application.
- 4a) Of the above claim(s) 7-12 and 20-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5, 6, 18 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date June 10, 2005.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. During a telephone conversation with Applicant's Representative, Chris Glembocki on June 10, 2005, a provisional election was made without traverse to prosecute the invention of group I, claims 5-6 and 18-19. Affirmation of this election must be made by applicant in replying to this Office action. Claims 7-12 and 20-25 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 5 is a single means claim, i.e., where a means recitation does not appear in combination with another recited element of means, is subject to an undue breadth rejection under 35 U.S.C. 112, first paragraph. In re Hyatt, 708 F.2d 712, 714-715, 218 USPQ 195, 197 (Fed. Cir. 1983).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 5 and 18 is rejected under 35 U.S.C. 102(e) as being anticipated by Doshi et al (US 6,349,138).

As shown in Figures 1-26, Doshi discloses a method of operating a data communications between a data terminal and a digital radio frequency communications link (abstract), comprising: transmitting a signal to the digital communication link in a format comprising one or more frames (320-0 ... 320-3; col. 6: lines 20-30) each of a constant frame length (61,440 bits), each of the frame including a plurality of subframes (340-0 ... 340-15; col. 6: lines 30-32) each of a constant subframe length (3840 bits) and including variable length information (834) indicative of the length of valid information (836) in that subframe (col.11: lines 29-41).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doshi et al (US 6,349,138).

Similarly, regarding claims 6 and 19, Doshi also discloses receiving a signal from the digital communication link in a format comprising one or more frames (320-0 ... 320-3; col. 6: lines 20-30), each of a constant frame length (61,440 bits), each the frame including a plurality of subframes (340-0 ... 340-15; col. 6: lines 30-32) each of a constant subframe length (3840 bits) and including variable length information (834) indicative of the length of valid information (836) in that subframe (col.11: lines 29-41), wherein one of the subframes includes a plurality of data sent by the second data terminal.

Though Doshi does not explicitly disclose sending the first of the data received to the first data terminal before the last of the data is received from the digital communications link, but since Doshi discloses a bi-directional communication system, thus it would have been obvious to one of ordinary skill in the art at the time the invention was made signals can be transmitted and received simultaneously in both direction, or that the first data terminal can transmit data received while receiving information from the digital communication link.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

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Olkkonen (US 6,768,724); Agarwal et al (US 6,711,140); Noonan (US 6,373,849); Doshi et al (US 6,349,138); Afanador (US 6,167,041); Rittle et al (US 6,111,892); Lang (US 5,995,554); Haughli et al (US 5,991,279); and Li et al (US 5,568,482).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Van Kim T. Nguyen whose telephone number is 571-272-3073. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung, can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

vkn


ZARNI MAUNG
SUPERVISORY PATENT EXAMINER